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12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION
14

15 GRACE SMITH and RUSSELL
16 RAWLINGS, on behalf of themselves and
all others similarly situated, and
17 CALIFORNIA FOUNDATION FOR
INDEPENDENT LIVING CENTERS, a
California nonprofit corporation,

18 Plaintiffs,

19 v.
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21 CALIFORNIA HEALTH AND HUMAN
SERVICES AGENCY; and CALIFORNIA
22 DEPARTMENT OF MANAGED
HEALTH CARE, KAISER
23 FOUNDATION HEALTH PLAN, INC.

Case No. 4:21-cv-07872-HSG

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS SECOND
AMENDED COMPLAINT**

Date: March 30, 2023

Time: 2:00 pm

Crtrm.: 2, 4th Floor

Judge: Hon. Haywood S. Gilliam, Jr.

Action Filed: October 7, 2021

Trial Date: None Set

Pursuant to Rule 201 of the Federal Rules of Evidence, Plaintiffs respectfully request that the Court take judicial notice of the following documents:

DOCUMENT LIST

Exhibit 1 is a true and correct copy of a document downloaded from the website of the California Department of Finance titled “Health and Human Services,” <https://www.ebudget.ca.gov/2021-22/pdf/Enacted/GovernorsBudget/4000.pdf>. It contains the 2021-22 state budget for the agency.

Exhibit 2 is a true and correct copy of the California Department of Finance, Manual of State Funds, Federal Trust Fund, https://www.dof.ca.gov/budget/Manual_State_Funds/find_a_fund/documents/0890.pdf.

Exhibit 3 is a true and correct copy of the CalHHS web page titled “Departments & Offices,” <https://www.chhs.ca.gov/about/departments-and-offices/>.

Exhibit 4 is a true and correct copy of a document downloaded from the CalHHS website, titled “Guiding Principles and Strategic Priorities,” https://www.chhs.ca.gov/wp-content/uploads/2022/03/CalHHS-Guiding-Principles_full-ada.pdf.

Exhibit 5 is a true and correct copy of the CalHHS web page titled “About CalHHS,” <https://www.chhs.ca.gov/about/departments-and-offices/>.

Exhibit 6 is a true and correct copy of a document downloaded from the CalHHS website, titled “Secretary Dr. Mark Ghaly California Health and Human Services Agency,” <https://www.chhs.ca.gov/wp-content/uploads/2019/04/Dr.-Ghaly-Bio.pdf>.

Exhibit 7 is a true and correct copy of a document downloaded from the web site of the executive branch of the government of the State of California, titled, “California State Government – The Executive Branch,” https://www.gov.ca.gov/wp-content/uploads/2021/12/Exec-Branch-Org-Chart-1.14.22_fully-remediated.pdf.

1 **Exhibit 8** is a true and correct copy a document downloaded from the 2021-2022
 2 Budget Summary web page of California Department of Finance, titled “Health and
 3 Human Services,” [https://ebudget.ca.gov/2021-](https://ebudget.ca.gov/2021-22/pdf/Enacted/BudgetSummary/HealthandHumanServices.pdf)
 4 [22/pdf/Enacted/BudgetSummary/HealthandHumanServices.pdf](https://ebudget.ca.gov/2021-22/pdf/Enacted/BudgetSummary/HealthandHumanServices.pdf).

5 **BASES FOR JUDICIAL NOTICE**

6 Judicial notice is proper for relevant facts “not subject to reasonable dispute” either
 7 because they are “generally known,” or “can be accurately determined from sources whose
 8 accuracy cannot reasonably be questioned.” Fed. R. Evid., Rule 201(b)(1), (2). Judicial
 9 notice is mandatory “if a party requests it and the court is supplied with the necessary
 10 information.” Fed. R. Evid., Rule 201(c)(2).

11 **I. Exhibits 1, 2, and 8 Are California State Budget Documents that Contain** 12 **Indisputable Facts Regarding the Sources of Funding for Defendants** 13 **Department of Managed Health Care and the California Health and Human** 14 **Services Agency (HHSA).**

14 Exhibit 1 is a copy of the HHSA’s Fiscal Year 2021-2022 budget, downloaded from
 15 the California Department of Finance state budget webpage. Plaintiffs seek judicial notice
 16 of the fact that several health programs and activities operated by HHSA and DHCS are
 17 funded from the state’s Federal Trust Fund. These facts are readily ascertainable on the
 18 following pages of Exhibit 1: pages 25-27 (functions of Defendant agency DMHC); page
 19 57 (showing funding of \$84,094,146,000 from Federal Trust Fund for DHCS); page 62
 20 (showing funding of \$83,525,481,000 from Federal Trust Fund for program “Medical Care
 21 Services (Medi-Cal)”).

22 Exhibit 2 is an excerpt of the California Department of Finance’s Manual of State
 23 Funds titled “Federal Trust Fund.” Plaintiffs seek judicial notice of the fact that the
 24 designation “0890 Federal Trust Fund” refers to the state account “for the deposit of all
 25 moneys received by the state from the federal government where the expenditure is
 26 administered through or under the direction of any state agency.” Exhibit 2 at 1.

27 Exhibit 8 is the California Department of Finance Budget Summary for CalHSSA
 28 for 2021-2022.

1 The state budget publications of the California Department of Finance have been
 2 accepted as judicially noticeable sources of information regarding the California state
 3 budget. *See St. John's Well Child & Fam. Ctr. v. Schwarzenegger*, 50 Cal. 4th 960, 967
 4 (2010); *Prof. Engineers in California Govt. v. Brown*, 229 Cal. App. 4th 861, 868 (Cal.
 5 App. 1st Dist. 2014).

6 These facts are relevant to show that HHSA and DMHC regulate and participate in
 7 a health program or activity that receives federal financial assistance.

8 **II. Exhibits 3, 4, 5, 6, and 7 Contain Facts Regarding Activities and Organizations**
 9 **of State Agencies Which Are Judicially Noticeable in State Agency Reports.**

10 Defendant HHSA publishes a description of its departments and offices (Exhibit 3),
 11 a set of “Guiding Principles & Strategic Priorities” (Exhibit 4), an “About CalHHS” page
 12 (Exhibit 5), and a biography of the Cal HHS Secretary (Exhibit 6). In addition the state
 13 government publishes an overall organizational chart (Exhibit 7). All of these are offered
 14 for judicial notice to show that Defendant DMHC is a component of Defendant HHSA,
 15 and is under the HHSA’s authority, jurisdiction and supervision. Courts regularly take
 16 judicial notice of similar facts from official agency publications. *See Disabled Rights*
 17 *Action Comm. v. Las Vegas Events, Inc.*, 375 F.3d 861, 866 (9th Cir. 2004) (taking judicial
 18 notice of “records of state agencies and other undisputed matters of public record”);

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1 *California Assn. for Health Services at Home v. State Dept. of Health Services*, 148 Cal.
2 App. 4th 696, 702 (Cal. App. 3d Dist. 2007) (taking judicial notice of official acts of State
3 of California in administering publicly funded health plans).

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5 DATED: February 7, 2023

Respectfully submitted,

6 ROSEN BIEN GALVAN & GRUNFELD LLP

7 By: /s/ Ernest Galvan

8 Ernest Galvan

9 Attorneys for Plaintiffs
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